

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Kevin O'Connor (Int)	Team: Team # 2	CCRB Case #: 201403575	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input checked="" type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Thursday, 04/10/2014 7:30 PM	Location of Incident: Lafayette Avenue and Castle Hill Avenue; 43rd Precinct Stationhouse	Precinct: 43	18 Mo. SOL 10/10/2015	EO SOL 10/10/2015	
Date/Time CV Reported Tue, 04/15/2014 9:38 AM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Tue, 04/15/2014 9:38 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Eric Healy	11799	947069	043 PCT
2. POM Gregory Kennedy	26842	948364	043 PCT
3. An officer			

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. SGT Williams Jeanbaptiste	04200	926992	043 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Gregory Kennedy	Abuse: PO Gregory Kennedy stopped § 87(2)(b) at Lafayette Avenue and Castle Hill Avenue in the Bronx.	
B.POM Eric Healy	Abuse: PO Eric Healy stopped § 87(2)(b) at Lafayette Avenue and Castle Hill Avenue in the Bronx.	
C.POM Eric Healy	Abuse: PO Eric Healy frisked § 87(2)(b) at Lafayette Avenue and Castle Hill Avenue in the Bronx.	
D.POM Gregory Kennedy	Abuse: PO Gregory Kennedy refused to provide his shield number to § 87(2)(b) at Lafayette Avenue and Castle Hill Avenue in the Bronx.	
E. An officer	Force: An officer used physical force against § 87(2)(b) at Lafayette Avenue and Castle Hill Avenue in the Bronx.	
F.POM Gregory Kennedy	Off. Language: PO Gregory Kennedy made remarks to § 87(2)(b) based upon race en route to the 43rd Precinct Stationhouse.	
G.POM Gregory Kennedy	Force: PO Gregory Kennedy used a chokehold against § 87(2)(b) at the 43rd Precinct Stationhouse.	
H.POM Eric Healy	Discourtesy: PO Eric Healy spoke discourteously to § 87(2)(b) at the 43rd Precinct Stationhouse.	
I.POM Gregory Kennedy	Abuse: PO Gregory Kennedy issued a summons to § 87(2)(b)	

Case Summary

On April 15, 2014, § 87(2)(b) called the CCRB and filed a complaint on behalf of her son, § 87(2)(b) and his uncle, § 87(2)(b) (encl. 5A-B).

On April 10, 2014, at approximately 7:30 p.m., § 87(2)(b) and § 87(2)(b) were walking to a bank at the intersection of Castle Hill Avenue and Lafayette Avenue in the Bronx when they were stopped by PO Gregory Kennedy and PO Eric Healy. The following allegations resulted:

- **Allegation A- Abuse of Authority: PO Gregory Kennedy stopped § 87(2)(b) at Lafayette Avenue and Castle Hill Avenue in the Bronx.**
- **Allegation B- Abuse of Authority: PO Eric Healy stopped § 87(2)(b) at Lafayette Avenue and Castle Hill Avenue in the Bronx.**
- **Allegation C- Abuse of Authority: PO Eric Healy frisked § 87(2)(b) at Lafayette Avenue and Castle Hill Avenue in the Bronx.**

§ 87(2)(b), § 87(2)(g)

- **Allegation D- Abuse of Authority: PO Gregory Kennedy refused to provide his shield number to § 87(2)(b) at Lafayette Avenue and Castle Hill Avenue in the Bronx.**

§ 87(2)(b), § 87(2)(g)

- **Allegation E- Force: An officer used physical force against § 87(2)(b) at Lafayette Avenue and Castle Hill Avenue in the Bronx.**

§ 87(2)(b), § 87(2)(g)

- **Allegation F- Offensive Language: PO Gregory Kennedy made remarks to § 87(2)(b) based upon race en route to the 43rd Precinct Stationhouse.**

- **Allegation G- Force: PO Gregory Kennedy used a chokehold against § 87(2)(b) at the 43rd Precinct Stationhouse.**

- **Allegation H- Discourtesy: PO Eric Healy spoke discourteously to § 87(2)(b) at the 43rd Precinct Stationhouse.**

§ 87(2)(b), § 87(2)(g)

- **Allegation I- Abuse of Authority: PO Gregory Kennedy issued a summons to**

§ 87(2)(b)

§ 87(2)(b), § 87(2)(g)

This case was not eligible for mediation.

Results of Investigation

Victim: § 87(2)(b)

- *At the time of the incident, § 87(2)(b) was a § 87(2)(b) year-old black man, § 87(2)(b) § 87(2)(b) at the time of the incident.*

Civilian Statement

§ 87(2)(b) was interviewed at the CCRB on April 28, 2014 (encl. 7A-M).

On April 10, 2014, at approximately 7:30 p.m., § 87(2)(b) left his home, located at § 87(2)(b) in the Bronx, and began to walk to the bank with his § 87(2)(b) old nephew, § 87(2)(b). § 87(2)(b) was wearing a black hoodie, red velour pants and black boots. § 87(2)(b)'s pants did not have a strap or a drawstring to make his pants tighter and they repeatedly slipped down, requiring him to pull his pants up approximately four or five times. After walking for approximately 12 minutes, § 87(2)(b) and § 87(2)(b) reached the intersection of Castle Hill Avenue and Lafayette Avenue, across the street from the bank. § 87(2)(b) and § 87(2)(b) did not stop at any point on their way to the bank, were not having a conversation and did not interact with any other individuals.

§ 87(2)(b) observed a silver or grey sedan traveling down Castle Hill Avenue towards Lafayette Avenue. § 87(2)(b) pulled his pants up one time when the vehicle was driving past him and § 87(2)(b). After passing by the two men, the vehicle made a u-turn and pulled up alongside them. § 87(2)(b) saw two plainclothes officers, identified via investigation as PO Gregory Kennedy and PO Eric Healy, inside of the vehicle (See enclosures for descriptions).

PO Kennedy asked § 87(2)(b) if he was just pulling up his pants and § 87(2)(b) replied that he was. PO Kennedy told § 87(2)(b) that people carry guns in that area and § 87(2)(b) asked if it was crime to pull up his pants. § 87(2)(b) asked PO Kennedy what he was so excited about and PO Kennedy told § 87(2)(b) "I ain't no rookie cop." PO Kennedy then got in § 87(2)(b)'s face, threw him against the gate of a church, and placed § 87(2)(b)'s right arm behind his back.

A navy blue vehicle arrived at the scene and two uniformed officers, PO3 and PO4, who remain unidentified and § 87(2)(b) described as men that were not black, approached § 87(2)(b) and § 87(2)(b). Either PO3 or PO4 pushed § 87(2)(b) against the gate once before PO Healy, PO3 and PO4 grabbed § 87(2)(b) and placed his hands behind his back. § 87(2)(b) observed § 87(2)(b) resist arrest by moving from side to side, but did not see or hear any further interaction between § 87(2)(b) and any officer.

§ 87(2)(b) asked PO Kennedy why he was being arrested and asked him for his badge number. PO Kennedy told § 87(2)(b) that he would give him his badge number, but never did so. § 87(2)(b) was then placed in handcuffs and thrown to the ground by PO Kennedy. § 87(2)(b) denied resisting arrest at any point. PO Kennedy stepped on § 87(2)(b)'s back once, which § 87(2)(b) described as just a step and not a stomp or forceful maneuver.

§ 87(2)(b) and § 87(2)(b) were then transported to the 43rd Precinct by PO Kennedy and PO Healy. At the front desk, § 87(2)(b) made "smart" comments to PO Kennedy and in response, PO Kennedy placed one of his hands over § 87(2)(b)'s face, covering his eyes, nose, and mouth, and held it there for approximately five seconds. § 87(2)(b) could not breathe as PO Kennedy held his hand over § 87(2)(b)'s face, which he did two times. Approximately 10 to 15 uniformed officers that § 87(2)(b) could not describe witnessed the incident.

§ 87(2)(b) was then placed in a cell and held for approximately two hours before he was released with a summons for disorderly conduct. § 87(2)(b) sustained cuts and scrapes to both knees and both wrists but did not seek medical treatment in regard to his injuries.

Victim: § 87(2)(b)

- *At the time of the incident, § 87(2)(b) was a § 87(2)(b)-old black man, § 87(2)(b)*
- § 87(2)(b) *at the time of this incident.*

Civilian Statement

§ 87(2)(b) was interviewed at the CCRB on April 28, 2014 (encl. 8A-F). His testimony was consistent with § 87(2)(b)s with discrepancies mentioned below:

§ 87(2)(b) observed § 87(2)(b) continually adjust his pants because they were falling down. Upon reaching the intersection of Lafayette Avenue and Castle Hill Avenue, PO Healy and PO Kennedy pulled up alongside the two men. PO Kennedy asked § 87(2)(b) three or four times if he had a gun and § 87(2)(b) did not respond. § 87(2)(b) then made a comment that § 87(2)(b) could not recall to PO Kennedy, who exited the vehicle and said, “Who are you talking to like that? I ain’t no fucking rookie cop.”

PO Healy also exited the vehicle and told § 87(2)(b) to stand to the side before asking him twice if he had any weapons. § 87(2)(b) did not respond. PO Healy then placed § 87(2)(b) against a gate and frisked his arms and legs. § 87(2)(b) also observed § 87(2)(b)s arms and legs being frisked by PO Kennedy.

A marked patrol vehicle arrived at the scene and two additional officers, PO3 and PO4, who could only be described as two white men, approached § 87(2)(b) and § 87(2)(b). One of the officers assisted PO Healy in handcuffing § 87(2)(b) and the other assisted PO Kennedy in handcuffing § 87(2)(b). After he was handcuffed, PO Healy and the assisting officer attempted to bring § 87(2)(b) to the ground and § 87(2)(b) squatted down and said, “I’m not going to the ground.” § 87(2)(b) did not resist further.

§ 87(2)(b) was then lifted up and thrown to the ground by an officer who he could not see and landed face down on the ground. § 87(2)(b) saw § 87(2)(b) on the ground and saw PO Kennedy step on his back once. § 87(2)(b) did not observe § 87(2)(b)s arrest.

§ 87(2)(b) and § 87(2)(b) were then transported to the 43rd Precinct. On the way to the stationhouse, PO Kennedy began to curse and § 87(2)(b) asked him why he was cursing. PO Kennedy reached back and grabbed § 87(2)(b) by the hood of his sweatshirt and said, “I don’t know why you niggers think you’re fucking lawyers.”

At the stationhouse, § 87(2)(b) was not answering questions and was talking back to the officers, which prompted PO Kennedy to grab § 87(2)(b) by the front of his neck and lift him up. PO Kennedy held this grip for five to ten seconds and § 87(2)(b) observed that § 87(2)(b)s breath was shortened as a result.

§ 87(2)(b) was placed in a juvenile room and chained to a bench where he was held for approximately two hours before PO Healy entered the room and told him, “Get your shit on. Your uncle is waiting for you.” § 87(2)(b) was then released without a summons or desk appearance ticket. § 87(2)(b) sustained a small cut to one of his wrists from the handcuffs and did not seek medical treatment as a result.

NYPD Statements:

Subject Officer: POLICE OFFICER GREGORY KENNEDY

- *At the time of the incident, PO Kennedy was a § 87(2)(b).*

- *PO Kennedy worked from 6 p.m. on April 10, 2014 until 2:35 a.m. the following day. He was assigned to Anti-Crime and worked with PO Eric Healy. They were assigned to unmarked patrol vehicle number 1410 and were in plainclothes.*

Memo Book (Encl. 13A-B)

At 7:35 p.m., a summons was issued to § 87(2)(b) for disorderly conduct.

CCRB Testimony (Encl. 15A-D)

PO Kennedy was interviewed at the CCRB on August 1, 2014.

On April 10, 2014, at approximately 7:35 p.m., PO Kennedy observed § 87(2)(b) walking eastbound on Lafayette Avenue in the Bronx with § 87(2)(b) had a suspicious bulge on the right side of his waistband, which PO Kennedy thought looked like a gun. § 87(2)(b) was holding his waistband, which PO Kennedy believed was an effort to conceal the object at his waistband. It appeared as if § 87(2)(b) had something protruding from his waistband, which was then covered by his shirt, so the bulge was of no discernable size. However, the bulge was large enough so that when § 87(2)(b)'s hand was on the bulge, PO Kennedy could still see the bulge. Furthermore, § 87(2)(b) was walking while cradling the bulge, so it was difficult to determine an exact shape or size. § 87(2)(b) did not make any suspicious movements.

After approximately 30 seconds, PO Kennedy and PO Healy approached § 87(2)(b) and § 87(2)(b) with the intention of confirming that § 87(2)(b) was not concealing a firearm. PO Kennedy identified himself as a police officer and asked § 87(2)(b) to remove his hand from his waistband. § 87(2)(b) became agitated, refused to remove his hand from his waistband, and began screaming and protesting the officers' decision to stop him. He yelled, "You're not allowed to stop, question and frisk anymore," and "You have no reason to stop me." PO Healy spoke to § 87(2)(b) but PO Kennedy could not hear their conversation. PO Kennedy did not tell § 87(2)(b) "I ain't no fucking rookie cop."

§ 87(2)(b)'s behavior caused multiple people to gather around the situation to watch and multiple vehicles were stopping to observe the encounter. It was therefore determined by PO Kennedy that § 87(2)(b) would be removed to the precinct for disorderly conduct. PO Kennedy was unable to recall § 87(2)(b)'s behavior during the incident.

PO Kennedy began to fear for his safety and handcuffed § 87(2)(b) but did not throw § 87(2)(b) against a gate. § 87(2)(b) flailed his arms while being placed in handcuffs, and PO Kennedy grabbed § 87(2)(b)'s arms and placed them behind his back to handcuff him. § 87(2)(b) was also handcuffed, but PO Kennedy did not see the handcuffing process or know the reason for which § 87(2)(b) was handcuffed. PO Kennedy did not observe PO Healy pick § 87(2)(b) up off the ground and throw him back onto the ground. PO Kennedy did not throw § 87(2)(b) to the ground and did not step on his back.

PO Kennedy frisked § 87(2)(b)'s waistband for officer safety and determined the bulge to be a cell phone. He could not recall the type of cell phone or how large it was. § 87(2)(b) continued to yell and act disorderly. PO Kennedy did not know whether PO Healy frisked § 87(2)(b).

§ 87(2)(b) did not request PO Kennedy's badge number. Uniformed officers from the 43rd Precinct, who PO Kennedy could not identify, drove past the location and stopped to see if everything was okay, but they had no interaction with § 87(2)(b) or § 87(2)(b). § 87(2)(b) and § 87(2)(b) were transported to the 43rd Precinct in the officers' unmarked sedan. PO Kennedy did not recall why § 87(2)(b) was transported to the stationhouse, as that was PO Healy's decision.

Once inside the police vehicle, PO Kennedy asked § 87(2)(b) for his pedigree information and attempted to explain why they were being transported to the stationhouse. PO Kennedy did not recall if § 87(2)(b) asked him not to curse and he did not tell § 87(2)(b) “I don’t know why you niggers think you’re fucking lawyers.”

At the stationhouse, PO Kennedy brought § 87(2)(b) in front of the desk and lodged him in. § 87(2)(b) was brought to the Juvenile Room. PO Kennedy did not put his hand over § 87(2)(b)’s face and did not grab him by the neck.

Eventually, § 87(2)(b) was released with a summons for disorderly conduct, and a juvenile report was prepared for § 87(2)(b). PO Kennedy did not hear PO Healy tell § 87(2)(b) “Get your shit on. Your uncle is waiting for you.”

Subject Officer: POLICE OFFICER ERIC HEALY

- *At the time of the incident, PO Healy was a § 87(2)(b).*
- *PO Healy worked from 6 p.m. on April 10, 2014 until 6 p.m. the following day. He was assigned to Anti-Crime and worked with PO Gregory Kennedy. They were assigned to an unmarked patrol vehicle and were in plainclothes.*

Memo Book (Encl. 10A-C)

At 7:40 p.m., two individuals were placed under arrest for disorderly conduct. At 8:40 p.m., juvenile log number § 87(2)(b) was generated and PO Kennedy issued a summons to § 87(2)(b). At 9 p.m., two prisoners were released.

CCRB Testimony (Encl. 11A-C)

PO Healy was interviewed at the CCRB on October 7, 2014. His testimony was consistent with PO Kennedy’s with discrepancies mentioned below.

PO Healy observed a heavy and bulky bulge, about the size of his service weapon, located in the front waistband area of § 87(2)(b)’s pants, from across the street. PO Healy suspected that the bulge may have been a weapon, but could not describe the shape of the bulge or the type of clothing § 87(2)(b) was wearing. § 87(2)(b) did not make any movements towards the bulge and § 87(2)(b) did not make any movements as he walked. The area the two men were walking in was described as a high crime area with many instances of gun violence.

PO Healy observed § 87(2)(b) and § 87(2)(b) for about a minute before he and PO Kennedy approached the two men. PO Healy’s intention upon stopping the men was to find out what the bulge was and confirm that it was not a weapon. PO Healy did not hear PO Kennedy tell § 87(2)(b) “I ain’t no fucking rookie cop.” PO Kennedy began to interact with § 87(2)(b) but PO Healy did not recall what was said. PO Healy did not recall if § 87(2)(b) was asked if he had any weapons. § 87(2)(b) became irate and said, “Stop and frisk is over.”

PO Kennedy frisked the bulge and the surrounding area around the waistband of § 87(2)(b)’s pants. PO Healy did not recall what the bulge was determined to be. § 87(2)(b) became irate and was walking towards § 87(2)(b). PO Healy frisked § 87(2)(b) as he was being uncooperative and his suspicion was raised that he may have been carrying a weapon, even though PO Healy did not observe any bulges on § 87(2)(b)’s person. PO Healy frisked the waistband area and pockets of § 87(2)(b)’s pants. Neither § 87(2)(b) nor § 87(2)(b) were in handcuffs when they were frisked.

PO Healy stated that § 87(2)(b) and § 87(2)(b)’s behavior did not cause a crowd to gather. PO Healy did not observe PO Kennedy throw § 87(2)(b) against a gate and did not observe his arrest. PO Healy attempted to place § 87(2)(b) in handcuffs, but § 87(2)(b)

resisted arrest by refusing to place his hands behind his back. Additional officers responded to the scene, but PO Healy could not recall who these officers were. PO Healy grabbed § 87(2)(b)'s arms, hands and wrists and brought him to the ground along with the assistance of one of the responding officers. § 87(2)(b)'s chest made contact with the ground. PO Healy did not lift § 87(2)(b) up and throw him back down onto the ground and did not observe PO Kennedy do so. PO Healy did not observe PO Kennedy step on § 87(2)(b)'s back.

§ 87(2)(b) was placed in handcuffs and he and § 87(2)(b) were transported to the 43rd Precinct. § 87(2)(b) asked both PO Healy and PO Kennedy for their badge numbers and both officers provided their badge numbers. En route to the stationhouse, there was a verbal interaction between the officers and § 87(2)(b) and § 87(2)(b) but PO Healy did not recall what was said. PO Healy did not hear PO Kennedy tell § 87(2)(b) "I don't know why you niggers think you're fucking lawyers."

PO Healy did not observe PO Kennedy interact with § 87(2)(b) at the 43rd Precinct. PO Healy did not observe PO Kennedy place his hand over § 87(2)(b)'s face or grab him by the neck. PO Healy lodged § 87(2)(b) in at the front desk and placed him in a cell. § 87(2)(b) was then taken into the Juvenile Room, where a juvenile report, the equivalent of a summons, was prepared by PO Healy for disorderly conduct.

Witness Officer: SERGEANT WILLIAMS JEAN-BAPTISTE

- *At the time of the incident, Sgt. Jean-Baptiste was at § 87(2)(b).*
- *Sgt. Jean-Baptiste worked from 2:50 p.m. on April 10, 2014 until 1 a.m. the following day. He was assigned as the desk sergeant and did not have a partner. Sgt. Jean-Baptiste was in uniform.*

Memo Book (Encl. 16A-C)

As Sgt. Jean-Baptiste had a stationhouse assignment, he was not required to maintain memo book entries.

CCRB Testimony (Encl. 17A-C)

Sgt. Jean-Baptiste was interviewed at the CCRB on November 6, 2014.

Sgt. Jean-Baptiste had no recollection of this incident. When provided with a photo of § 87(2)(b) and a brief description of the incident, Sgt. Jean-Baptiste still did not have any recollection of this incident. Sgt. Jean-Baptiste did not observe § 87(2)(b) in the 43rd Precinct and did not observe him interact with any officers. Sgt. Jean-Baptiste did not observe PO Kennedy interact with any prisoners and did not observe him place his hand over § 87(2)(b)'s face or grab him by the neck. Sgt. Jean-Baptiste did not observe any officer make contact with § 87(2)(b)'s neck or throat.

NYPD Documents

43rd Precinct Command Log Entry (Encl. 18)

§ 87(2)(b) and § 87(2)(b)'s arrests on April 10, 2014 were entered into the command log at 7:45 p.m. PO Kennedy was assigned the arrests. Both § 87(2)(b) and § 87(2)(b)'s physical conditions were listed as apparently normal.

Summons/Juvenile Report for Incident and Disposition (Encl. 18A-D and 11A-D)

- On § 87(2)(b), § 87(2)(b)'s summons was dismissed.

- The juvenile report prepared for § 87(2)(b) is an internal police document and although it indicates § 87(2)(b) committed disorderly conduct, juveniles cannot be prosecuted for a violation.

Status of Civil Proceedings

- Neither § 87(2)(b) nor § 87(2)(b) have filed a Notice of Claim with the City of New York as of October 8, 2014, three months after the filing deadline, with regard to the incident.

Civilians Criminal History

- As of October 8, 2014, Office of Court Administration records reveal no criminal convictions for § 87(2)(b) or § 87(2)(b)

Civilians CCRB History (Encl. 3A-C)

- This is the first CCRB complaint filed by § 87(2)(b) or § 87(2)(b)

Subject Officers CCRB History (Encl. 2A-B)

- PO Kennedy has been a member of the service for five years and there are no substantiated CCRB allegations against him.
- PO Healy has been a member of the service for six years and there are no substantiated CCRB allegations against him.

Conclusion

Identification of Subject Officers

- PO Kennedy and PO Healy acknowledged interacting with § 87(2)(b) and § 87(2)(b)
- As § 87(2)(b) could not see the officer who used force against him, **Allegation E** will be pled to an officer.

Allegations Not Pleaded

- As § 87(2)(b) did not allege that he was frisked or searched by PO Kennedy, no frisk or search allegations are being pleaded against him.
- As § 87(2)(b) did not allege that PO Kennedy told him, “I ain’t no fucking rookie cop,” no discourtesy allegation is being pleaded against him.

Investigative Findings and Recommendations

Allegation A- Abuse of Authority: PO Gregory Kennedy stopped § 87(2)(b) at Lafayette Avenue and Castle Hill Avenue in the Bronx.

Allegation B- Abuse of Authority: PO Eric Healy stopped § 87(2)(b) at Lafayette Avenue and Castle Hill Avenue in the Bronx.

Allegation C- Abuse of Authority: PO Eric Healy frisked § 87(2)(b) at Lafayette Avenue and Castle Hill Avenue in the Bronx.

It is undisputed that PO Kennedy stopped § 87(2)(b) and that PO Healy stopped and frisked § 87(2)(b). § 87(2)(b) admitted to pulling up his pants several times as he walked, which was corroborated by § 87(2)(b).

PO Kennedy observed a suspicious bulge on the right side of § 87(2)(b)'s waistband, which PO Kennedy thought looked like a firearm. § 87(2)(b) was holding his waistband in an apparent attempt to conceal the bulge. PO Kennedy could not describe the size of the bulge, but

stated that the bulge was large enough that when § 87(2)(b)'s hand was covering the bulge, PO Kennedy could still see it. After frisking § 87(2)(b)'s waistband, the bulge was determined to be a cell phone. PO Kennedy did not observe § 87(2)(b) make any suspicious movements and did not observe PO Healy frisk § 87(2)(b).

PO Healy observed § 87(2)(b) walking with a bulge, about the size of PO Healy's service weapon, in the front waistband area of his pants. PO Healy suspected that the bulge may have been a weapon. § 87(2)(b) did not make any movements towards the bulge.

PO Healy did not observe § 87(2)(b) make any suspicious movements and did not observe any bulges on his person. PO Healy frisked § 87(2)(b)'s pockets and waistband area because § 87(2)(b) had not been cooperative with being stopped. § 87(2)(b) repeatedly walked towards § 87(2)(b) and was irate, which raised PO Healy's suspicion that § 87(2)(b) may have been carrying a weapon.

An officer may stop an individual when there is reasonable suspicion to believe that individual has committed, is committing or is about to commit a crime. A frisk is permitted when the officer reasonably suspects that he is in danger of physical injury by the virtue of the detainee being armed. *People v. DeBour*, 40 N.Y. 2d 210 (1976) (encl. 1A-K). The observation of an amorphous bulge does not, in the absence of other circumstantial factors, produce reasonable suspicion of a crime. *People v. Barretto* 161 A.D. 2d 305 (1990-1st Dept.) (encl. 1L-N).

§ 87(2)(b), § 87(2)(g)
[REDACTED]
[REDACTED]
[REDACTED].

PO Kennedy could not describe the bulge in detail, making it an amorphous bulge. As with any amorphous bulge, lack of information about the bulge's shape or general appearance means the bulge in question could have been a variety of innocuous objects, including a cell phone, the object the bulge was determined to be. § 87(2)(b)'s behavior, including pulling his pants up repeatedly, was innocuous in and of itself and was not mentioned by either officer as a circumstance leading to the stop. In addition, neither PO Kennedy nor PO Healy noted that § 87(2)(b) made any suspicious movements.

§ 87(2)(b), § 87(2)(g)
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED].

Allegation D- Abuse of Authority: PO Gregory Kennedy refused to provide his shield number to § 87(2)(b) at Lafayette Avenue and Castle Hill Avenue in the Bronx.

§ 87(2)(b) alleged that after asking PO Kennedy for his shield number, PO Kennedy replied that he would, but never did so.

PO Kennedy denied being asked for his shield number. PO Healy stated that § 87(2)(b) asked both he and PO Kennedy for their shield numbers and both officers provided their shield numbers.

§ 87(2)(b), § 87(2)(g)
[REDACTED]
[REDACTED]

§ 87(2)(g)

Allegation E- Force: An officer used physical force against § 87(2)(b) at Lafayette Avenue and Castle Hill Avenue in the Bronx.

§ 87(2)(b) alleged that an officer he could not see lifted him up and threw him back onto the ground after he was placed in handcuffs. § 87(2)(b) did not observe any officer use force against § 87(2)(b).

PO Healy denied picking § 87(2)(b) up and throwing him to the ground and did not observe any other officer do so. PO Kennedy did not observe § 87(2)(b)'s arrest.

§ 87(2)(b), § 87(2)(g)

Allegation F- Offensive Language: PO Gregory Kennedy made remarks to § 87(2)(b) based upon race en route to the 43rd Precinct Stationhouse.

Allegation H- Discourtesy: PO Eric Healy spoke discourteously to § 87(2)(b) at the 43rd Precinct Stationhouse.

§ 87(2)(b) alleged that en route to the 43rd Precinct Stationhouse, PO Kennedy began using profanity when speaking to him. § 87(2)(b) asked PO Kennedy to stop using profanity and PO Kennedy replied, "I don't know why you niggers think you're fucking lawyers." § 87(2)(b) also alleged that upon his release from the Juvenile Room, PO Healy told him, "Get your shit on. Your uncle is waiting for you." § 87(2)(b) did not mention hearing any profanity directed towards § 87(2)(b) at any point during the incident. Both PO Kennedy and PO Healy denied using any offensive language or profanity at any point during the incident.

§ 87(2)(b), § 87(2)(g)

Allegation G- Force: PO Gregory Kennedy used a chokehold against § 87(2)(b) at the 43rd Precinct Stationhouse.

§ 87(2)(b) alleged that after making "smart comments" to PO Kennedy at the front desk, PO Kennedy placed one of his hands over § 87(2)(b)'s face, covering his eyes, nose and mouth, on two separate occasions. § 87(2)(b) could not breathe during this time. § 87(2)(b) observed PO Kennedy grab § 87(2)(b) by the front of his neck and lift him up. PO Kennedy held this grip for five to ten seconds and § 87(2)(b)'s breathing was shortened.

PO Kennedy denied covering § 87(2)(b)'s face with his hand or making contact with his neck at any point during the incident. PO Healy did not observe PO Kennedy cover § 87(2)(b)'s face or place him in a chokehold. Sgt. Jean-Baptiste, the desk sergeant during the time of incident, did not observe § 87(2)(b) in the stationhouse and did not observe PO Kennedy cover § 87(2)(b)'s face or place him in a chokehold.

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b)

PO Kennedy stated that upon the stop, § 87(2)(b) became agitated and began screaming and protesting the stop by saying, “You’re not allowed to stop, question and frisk anymore,” and “You have no reason to stop me.” This caused multiple people to gather around the situation and for vehicles to stop and observe the encounter. PO Healy stated that § 87(2)(b) became irate and said, “Stop and frisk is over” upon being stopped by PO Kennedy. PO Healy also stated that a crowd did not gather around the scene as a result of § 87(2)(b)’s behavior.

§ 87(2)(b)

§ 87(2)(b), § 87(2)(g)

Reviewer: _____

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Title/Signature	Print	Date